

**PLAINTIFF'S MOTION  
EXHIBIT 33**

1 VINOD DHAR, M.D.

2 Q. Pursuant to the policy?

3 A. Substantial risk is to prevent  
4 the potential risk.

5 Q. My question is if you have a  
6 risk, but it's only a potential risk, is  
7 that sufficient to qualify as a substantial  
8 risk under the policy?

9 A. Under the policy, yes.

10 Q. So any risk is a substantial  
11 risk under the policy?

12 A. Under the policy for 9.39, yes.

13 Q. Why is that?

14 A. Safety.

15 Q. The safety of whom?

16 A. The person.

17 Q. What does the term substantial  
18 risk mean to you, Doctor?

19 A. It's a very undefined term that  
20 is used by different agencies by different  
21 professionals. There's a patient in the  
22 nursing home, there is a patient coming from  
23 -- patient living in the home by himself, he  
24 is -- has no food, has no heat, and if the  
25 neighbors complain that he's smelling. So

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2 somebody will go there and make an  
3 assessment and if what they find there is  
4 potentially a dangerous situation, they will  
5 remove the patient and bring to the  
6 emergency room. So there is a substantial,  
7 as well as, potential.

8 Q. Isn't there a difference in your  
9 mind between any risk and substantial risk?

10 MR. RADOMISLI: I'm going to  
11 object to the extent you're asking for  
12 his mind. If you want to ask whether  
13 it's a policy --

14 MR. SMITH: Okay. Fine. I will  
15 ask what the policy is and see if he  
16 thinks there's any distinction either  
17 because we are mincing words here.

18 Q. Under the Jamaica Hospital  
19 policy, is there any difference between a  
20 potential or any potential risk of  
21 dangerousness and a substantial risk of  
22 dangerousness?

23 A. Again, it's a clinical judgment.  
24 I don't think it's defined in the policy.

25 Q. In your opinion, is there a

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2 difference between any potential risk and a  
3 substantial risk of dangerousness?

4 MR. RADOMISLI: He is here as a  
5 30(b)(6) witness.

6 Q. Okay. You can answer the  
7 question.

8 MR. RADOMISLI: No, he can't.

9 MR. SMITH: You're instructing  
10 him not to answer that question?

11 MR. RADOMISLI: It's not proper  
12 of a 30(b)(6) witness. You know that.

13 MR. SMITH: No, I don't.

14 MR. RADOMISLI: I cited a case.  
15 Don't answer that question. It's not  
16 proper.

17 Q. Does the term substantial risk,  
18 as defined in the Jamaica Hospital policy,  
19 include any risk of harm?

20 A. Yes.

21 Q. So under Jamaica's policy, any  
22 possible risk is a sufficient basis in which  
23 to involuntarily admit somebody, because of  
24 the conclusion that they are dangerous to  
25 themselves or others; is that correct?

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2 MR. RADOMISLI: Objection to the  
3 form.

4 A. Yes.

5 Q. Is part of Jamaica's policy in  
6 making this assessment about risk of  
7 dangerousness to seek out to protect the  
8 community, as well as, the patient?

9 A. Both.

10 Q. I'm sorry?

11 A. Both patient, as well as, the  
12 community.

13 Q. Why is the hospital involved in  
14 seeking out to make the community safe?

15 MR. RADOMISLI: Objection to  
16 form.

17 A. Because article 9.39 is safety  
18 for patient and others.

19 Q. So Jamaica Hospital views one of  
20 its roles under 9.39 is to make the  
21 community safe?

22 MR. RADOMISLI: Objection to  
23 form.

24 A. I don't think it's question of  
25 making the community safe. It's making --